**UNITED STATES BANKRUPTCY COURT**
**NORTHERN DISTRICT OF FLORIDA**
**PENSACOLA DIVISION**

IN RE:

MARTIN JAMES DEKOM, SR., CASE NO.: 19-30082-KKS
CHAPTER: 13

Debtor.
_____/

**ORDER DENYING, *NOTICE [SIC] AND MOTION TO RECONSIDER DENIAL OF MOTION TO EXCLUDE EXHIBITS* (DOC. 289)**

THIS CASE is before the Court on Debtor's *Notice [sic] and Motion to Reconsider Denial of Motion to Exclude Exhibits* ("Motion to Reconsider," Doc. 289). Debtor has never let the word "no" deter him from filing frivolous pleadings. The Motion to Reconsider is no different. For the reasons set forth below, that motion is due to be denied.

## BACKGROUND

The Court conducted a final evidentiary hearing on February 12, 2020 to consider, among other things, confirmation of Debtor's Sixth Plan and whether to grant stay relief in favor of Debtor's only creditor, Nationstar Mortgage, LLC, d/b/a Mr. Cooper ("Nationstar"). Debtor attended, participated in and testified at that hearing. After the hearing the Court issued findings of fact and conclusions of law, denied

confirmation of Debtor's Sixth Plan, granted stay relief to Nationstar, and dismissed this Chapter 13 case with prejudice.[1] During the hearing the Court accepted into evidence, without objection, a document Nationstar's witness described as a certified copy of a Final Judgment of Foreclosure rendered by the Supreme Court for the State of New York on December 2, 2014.[2]

**The Motion to Reconsider is deficient.**

On March 4, 2020, long after the Court concluded the final evidentiary hearing, Debtor filed a paper entitled *Notice of Irregularity* alleging that the certified copy of the Final Judgment of Foreclosure was a "fake" and requested that Nationstar's counsel "explain" the authenticity of that document.[3] Construing the *Notice of Irregularity* as an objection to admissibility of the Exhibit, the Court denied that relief

[1] Docs. 297, 300 and 302.

[2] *Judgment of Foreclosure And Sale After Inquest and Appointment of Referee* ("Final Judgment of Foreclosure"), Nationstar Exhibit 3 (Docs. 214; 274-1).

[3] Doc. 280. Debtor claims that an employee of the Clerk of Court's office in New York told him over the telephone that no "requests had been made" during the past year and agreed that the last person to request to the file was probably Debtor, "some years back." The letter Debtor received as a result of his Freedom of Information Law ("FOIL") Request does not support Debtor's version of the facts. In the letter the Nassau County (New York) Clerk's Office states "the County Clerk is acknowledging your request and is going to be denying it. The records you are requesting for certified copies on case #13-08566 are public record, which is not accessible under the Freedom of Information Law. *As for your request for transaction reports & receipts as well as responses by the clerk for copies & searches, upon a search of our records there are no such records in existence for this case." Id.* at p. 3 (emphasis added).

as untimely under Rule 103 of the Federal Rules of Evidence.[4] Undeterred, Debtor next filed a paper entitled *Notice [sic] and Motion to Exclude Exhibits* in which he again challenged the veracity of and moved to exclude the certified copy of the Final Judgment of Foreclosure, on the same grounds.[5] The Court summarily denied this second request.[6] Debtor then filed the instant Motion to Reconsider, by which he makes a third attempt to exclude the Final Judgment of Foreclosure from evidence in hopes of derailing, or at minimum delaying, the outcome of this case.

**Legal Basis for the Motion to Reconsider.**

Neither the Federal Rules of Civil Procedure nor the Federal Rules of Bankruptcy Procedure recognize a motion for reconsideration. Instead, the rules allow a litigant subject to an adverse judgment to file either a motion to alter or amend a judgment pursuant to Rule 59(e), Fed. R. Civ. P. or a motion seeking relief from a judgment pursuant to Rule 60(b),

[4] Doc. 285.
[5] Doc. 283. In this paper Debtor also asserts that he was never served with this Exhibit because Nationstar's counsel retrieved the courtesy copies of Exhibits from him after the conclusion of the hearing.
[6] Doc. 284.

Fed. R. Civ. P.[7] Courts determine which rule applies by determining when the motion is served.[8]

Debtor erroneously cites Bankruptcy Rule 9023, which incorporates Rule 59. The orders for which Debtor seeks reconsideration are not "judgments," so the Court construes Debtor's Motion to Reconsider as one seeking relief under Rule 60(b).[9]

Rule 60(b) sets forth six (6) grounds on which a court may relieve a party from a final judgment, order, or proceeding:

> (1) mistake, inadvertence, surprise, or excusable neglect;
> (2) newly discovered evidence that, with reasonable diligence, could not have been discovered in time to move for a new trial under Rule 59(b);
> (3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
> (4) the judgment is void;

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[7] These rules are made applicable to bankruptcy cases by Fed. R. Bankr. P. 9023 and 9024, respectively.

[8] *See In re Enron Corp.,* 352 B.R. 363, 366-68 (Bankr. S.D.N.Y. 2006)(the "evident trend in the case law" is to analyze motions for reconsideration of claims as if they were motions under Federal Rule 59 or 60; the standard that applies is "distinguished by the length of time that elapsed between entry of the order and filing of the motion").

[9] Were the Court to consider the Motion to Reconsider as one filed pursuant to Rule 59(e) the Debtor would still not prevail. Under Rule 59(e), "amendment of a judgment is only justified where (1) the court is presented with newly discovered evidence; (2) the court committed clear error or the decision was manifestly unjust; or (3) there is an intervening change in controlling law. A motion to amend . . . may be used 'to clarify essential findings or conclusions, correct errors of law or fact, or to present newly discovered evidence.' A party may not use a motion to amend as a vehicle 'to present a new legal theory for the first time'; 'to raise legal arguments which could have been raised in connection with the original motion'; or 'to rehash the same arguments presented the first time or simply express the opinion that the court was wrong.'" *In re King,* Case No. 2:16-bk-26635-WB, Doc. 64, *Decision and Order,* pp. 4-5 (Bankr. C.D. Cal. May 9, 2017) (internal citations omitted).

> (5) the judgment has been satisfied, released, or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or (6) any other reason that justifies relief.[10]

Debtor's Motion to Reconsider does not allege, much less demonstrate, any of the five enumerated grounds or any other reason that justifies relief.[11]

Debtor essentially maintains that the Court made a mistake covered by Rule 60(b)(1) in denying his two prior requests to exclude the certified copy of the Final Judgment of Foreclosure from evidence. This interpretation of Rule 60(b) is wrong. Rule 60(b)(1) applies to a party's mistake, not that of a court. Debtor's right to appeal these rulings is the appropriate avenue to address what he perceives to be the Court's mistake.[12]

A Rule 60(b) motion to reconsider is not a second opportunity for the losing party to make his strongest case or dress up arguments that

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[10] Fed. R. Civ. P. 60(b) made applicable by Fed. R. Bankr. P. 9024; *See* 10 Collier on Bankruptcy P. 9024.01 (16th 2020).

[11] Fed. R. Civ. P. 60(b)(6) is sometimes referred to as the "residual clause."

[12] Under Rule 59(e) a party may seek reconsideration to correct a clear error of law or prevent manifest injustice. *See, e.g., McCoy v. Macon Water Auth.,* 966 F. Supp. 1209, 1222-23 (M.D. Ga. 1997). Neither of those have occurred as a result of the Court's denial of Debtor's two motions to, in essence, re-open the evidence. Further, Debtor has already filed his appeal of several of the Court's orders and, if appropriate, may seek reversal on this basis. *See, e.g.,* Docs. 249 and 320.

previously failed.[13] Motions under Rule 60(b) are subject to the sound discretion of the Court.[14] As the Eleventh Circuit has noted, Rule 60(b) provides that a court *may relieve* a party from an order; and that "[t]o 'relieve' a party is to 'ease of imposition, burden, wrong, or oppression, by a judicial or legislative interposition.'"[15] As discussed below, it made no difference to the outcome of the evidentiary hearing whether the copy of the Final Judgment of Foreclosure was certified or not. So, no order exists from which Debtor needs or is entitled to relief.

## The Facts and Procedural History.

The underlying facts bear repeating.[16] They demonstrate that the Motion to Reconsider is nothing but another chapter in Debtor's nearly decade-long battle to avoid the effects of the Final Judgment of Foreclosure in two states and no less than five different courts.[17]

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[13] *Voelkel v. Gen. Motors Corp.,* 846 F. Supp. 1482, 1483 (D. Kan.), *aff'd.* 43 F.3d 1484 (10th Cir. 1994).

[14] *See, e.g., United States v. Certain Real Prop. Located at Route 1, Bryant, Ala.,* 126 F.3d 1314, 1318 (11th Cir. 1997).

[15] *Cano v. Baker,* 435 F.3d 1337, 1339-40 (11th Cir. 2006) (citations omitted).

[16] Facts in this section derive from the *Report and Recommendation* adopted by the District Court for the Eastern District of New York in *Dekom v. Fannie Mae, et. al.,* Case No.: 2:17-cv-02712-RRM-ARL, Doc. 234 (E.D.N.Y. Mar. 28, 2019) and this Court's *Order Overruling, In Part, Debtor's Objections to Claim of Nationstar (Docs. 63, 76 and 158)* Doc. 237.

[17] Debtor has thus far litigated these issues in the Supreme Court for the State of New York-Nassau County; the Court of Appeals for the State of New York; the District Court for the Eastern District of New York; the United States Court of Appeals for the Second Circuit; this Court, and now via appeals filed with the District Court for the Northern District of Florida.

In 2007, Debtor, then a licensed mortgage loan originator, executed a Mortgage and Note with Countrywide Bank FSB, regarding real property located at 34 High Street, Manhasset, New York ("the Property"). Debtor stopped making mortgage payments in or around June 2011. Over a year and a half later the mortgage holder sent Debtor a pre-foreclosure notice in compliance with applicable law. As a result of his default on this mortgage loan, Debtor's mortgage loan license was revoked.

Nationstar's predecessor in interest commenced a foreclosure action on July 17, 2013 and obtained a default against Debtor. Debtor attended a foreclosure settlement conference on July 8, 2014, but the parties failed to settle. The mortgage loan was re-assigned to Nationstar on June 17, 2014.

The state court rejected Debtor's motion to dismiss the foreclosure proceeding. After an "inquest hearing" before the judge, that court issued a decision finding that the mortgage holder was entitled to a Judgment of Foreclosure, establishing the amount due and the interest rate and appointing a referee. Before the state court issued the Final Judgment of Foreclosure, Debtor filed a "Motion to Reargue, Renew, and Stay"

seeking, in part, to dismiss the foreclosure action. While that motion was pending, on December 2, 2014 the court entered the Final Judgment of Foreclosure.[18] Debtor then filed a second motion, this time seeking to vacate his default. The state court then issued two orders dated April 16 and May 14, 2015; one denied Debtor's motion to reargue and the other denied Debtor's motion to vacate the default. Debtor appealed the Final Judgment of Foreclosure and the latter two orders to the New York Appellate Division, Second Department. On May 16, 2018, the Appellate Division affirmed the Final Judgment of Foreclosure and both orders.

Debtor then commenced an action in federal district court attacking the validity of the documents underlying the Final Judgment of Foreclosure, the foreclosure process itself and New York state court judges and staff. That action was eventually dismissed by the District Court for the Eastern District of New York.[19]

In 2018, Debtor filed a Chapter 13 in the Bankruptcy Court for the Eastern District of New York.[20] Debtor's New York Bankruptcy case was

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[18] The Final Judgment of Foreclosure also amended the caption to substitute Nationstar as the plaintiff in accordance with a 2014 Assignment of the Mortgage to Nationstar. *Dekom v. Fannie Mae, et. al.,* Case No.: 2:17-cv-02712-RRM-ARL, Doc. 230, *Report and Recommendation* (E.D.N.Y. Feb. 26, 2019).

[19] *See, infra,* pp. 15-17.

[20] *In re Dekom,* Bankruptcy Petition #: 8-18-75602-reg, Doc. 22, *Official Form 113- Chapter 13 Plan* (Bankr. E.D.N.Y. Oct. 4, 2018).

dismissed prior to confirmation for several reasons including Debtor's failure to make monthly pre-confirmation plan payments, failure to file documents, failure to appear, and to be examined at the § 341 Meeting of creditors.[21] Shortly after that Chapter 13 case was dismissed, Debtor filed the instant Chapter 13 case.

## DISCUSSION

### Debtor has not been deprived of due process.

During this Chapter 13, no less than fifteen (15) times Debtor has: a) requested that this Court look behind the Final Judgment of Foreclosure, b) alleged that the Final Judgment of Foreclosure is not valid, and c) maintained that Nationstar lacks standing or is not the holder of the original Note:

1. *Debtor's Opposition to Motion for Relief from Automatic Stay*;[22]
2. *Debtor's* [three (3)] *Objections to Claim of Nationstar*;[23]
3. *Motion to Strike Nationstar MFR and Reply*;[24]
4. *Motion to Vacate and Declare Void*;[25]

[21] *Id.,* Doc. 16, *Notice of Motion,* and Doc. 32, *Order* (Bankr. E.D.N.Y. Oct. 30, 2018).
[22] Doc. 61.
[23] Docs. 63, 76 and 158.
[24] Doc. 92.
[25] Doc. 93 (seeking to vacate ruling by the Eastern District of New York that relitigation of Final Judgment of Foreclosure is barred by the *Rooker Feldman* doctrine, *res judicata* and collateral estoppel).

5. *Motion to Compel*;[26]
6. *Motion to Sanction Nationstar*;[27]
7. *Debtor's Opposition to Nationstar's Amended Motion for Relief from Automatic Stay*;[28]
8. *Debtors'* [*sic*] *Reply in Support of Motion to Compel*;[29]
9. *Debtor's Affidavit for Show Cause Hearing in Opposition to Sanction and Dismissal*;[30]
10. *Chapter 13 Plan, Sixth Amended*;[31]
11. *Notice and Motion to Stay Pending Appeal*;[32]
12. *Re: In re Dekom 19-30082-KKS, Notice regarding withdrawn exhibits;*[33]
13. *Notice and Motion to Exclude Exhibits*;[34]
14. *Notice and Motion to Reconsider Denial of Motion to Exclude Exhibits* (the Motion at hand);[35] and

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[26] Doc. 98.
[27] Doc. 128.
[28] Doc. 129.
[29] Doc. 132.
[30] Doc. 222.
[31] Doc. 244 (proposes to pay a portion of Nationstar's claim only after further litigation).
[32] Doc. 251.
[33] Doc. 277.
[34] Doc. 283 (claiming the Final Judgment of Foreclosure admitted into evidence "do[es] not exist" because Debtor claims he was never served with a copy.).
[35] Doc. 289.

15. *Debtor's Amended 1) Opposition to Nationstar [sic] motion for relief (ECF 118), 2) Opposition to plan objections of Nationstar (ECF 253) and Trustee (ECF 263), 3) Opposition to Trustee [sic] motion to dismiss (ECF 279, unserved), 4) Support for confirmation of debtor's [sic] proposed sixth amended plan (ECF 244).*[36]

Debtor has had his day(s) in court with respect to the validity of the Final Judgment of Foreclosure.[37] As the record amply demonstrates, Debtor has emphatically not been deprived of due process.

**The basis for Debtor's objection to admission of the Final Judgment of Foreclosure in evidence is false, and the Objection is too late.**

Debtor declares that he has suffered a miscarriage of justice because the copy of the Final Judgment of Foreclosure admitted in evidence is not really "certified." This claim is untrue; it is also too late. Debtor next complains that he has been deprived of due process because Nationstar did not give him a copy of its exhibits – the Final Judgment

[36] Doc. 295.

[37] Debtor has falsely sworn in his pleadings that the Final Judgment of Foreclosure was on further appeal to the Court of Appeals for the State of New York. Doc. 222. But the only pleading pending before that court is Debtor's belated motion for leave to appeal, filed months after the time to appeal had run. Doc. 223, p.2 and Doc. 237, pp.5-7. At a preliminary hearing in January this Court lifted the automatic stay to permit Nationstar and Debtor to seek and obtain a ruling on that motion. Docs. 233 and 300.

of Foreclosure in particular – before the final hearing. This claim is ludicrous.

Debtor has been aware of, and litigating against, the Final Judgment of Foreclosure for years. For example, in this case Debtor objected to Nationstar's stay relief motion.[38] In its reply, served on Debtor October 2, 2019, Nationstar made clear that its stay relief motion was centered on the Final Judgment of Foreclosure and attached a copy of the judgment.[39] In January and February, 2020 Nationstar filed an original and amended Exhibit lists for the final evidentiary hearing - the Final Judgment of Foreclosure is listed as Exhibit 3 on both.[40] On February 5, 2020 Nationstar filed its Statement of Undisputed Facts setting forth the existence of the Final Judgment of Foreclosure.[41] Debtor filed nothing in opposition to any of these documents.

In his first objection to Nationstar's claim, filed with this Court on September 16, 2019, Debtor demonstrated his intimate familiarity with the Final Judgment of Foreclosure:

[38] *Amended Motion for Relief from Automatic Stay,* Doc. 118. Debtor's objections filed at Docs. 61, 92, 129 and 203.
[39] Doc. 84.
[40] Doc. 214.
[41] Doc. 254.

> Nationstar, in collusion with the Nassau County [New York] Clerk, subjected debtor to a homebrew procedure called "the Foreclosure Inquest Program.". . . A "Judgment of Foreclosure and Sale After Inquest" was entered December 11, 2014. [Debtor] appealed.
> . . .
> [The mortgage note] is void and unenforceable, as a judgment was rendered on it in [*sic*] December 11, 2014 (see p.5, Exhibit A, Clerk Minutes Log of Nassau Supreme [*sic*] No. 13-08566). . . . The mortgage Note ceased to exist with the *Nationstar I* "Judgment of Foreclosure and Sale after Inquest" (12/11/2014).[42]

Debtor was neither surprised nor prejudiced by admission of the certified copy of the Final Judgment of Foreclosure in evidence. Nationstar's witness first laid the proper predicate.[43] When Nationstar's counsel then offered the document in evidence the Court asked Debtor if he objected; Debtor answered that he did not.

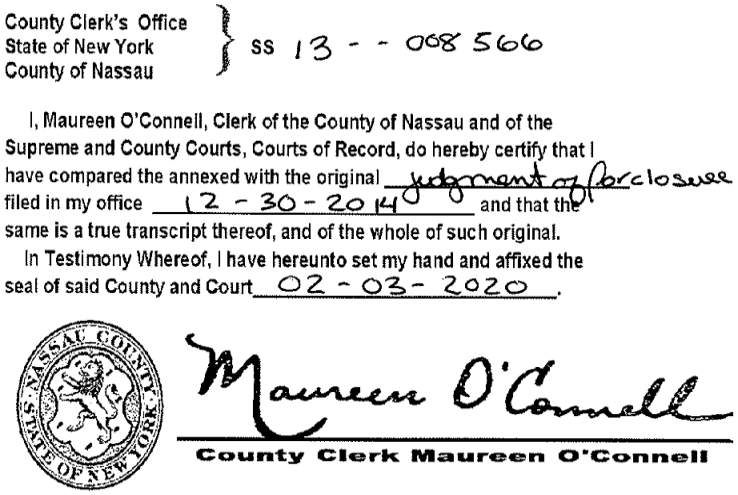
Federal Rule of Evidence 103(a) provides, in pertinent part:

> **Preserving a Claim of Error**. A party may claim error in a ruling to admit or exclude evidence only if the error affects a substantial right of the party and:
> (1) if the ruling admits evidence, a party, on the record:
> (A) timely objects or moves to strike; and
> (B) states the specific ground, unless it was apparent from the context . . . .[44]

[42] Doc. 63, pp. 2-3.
[43] Before Nationstar's counsel offered the certified copy of the Final Judgment of Foreclosure into evidence its witness, Mr. LaClave, testified that the document contained a "raised seal," a caption containing names of the parties and the court, the index number and date.
[44] Fed. R. Evid. 103.

The Court has already denied Debtor's belated objection to the admissibility of the Final Judgment of Foreclosure. Nothing in Debtor's Motion to Reconsider raises any new grounds on this issue.

Aside from the tardiness of Debtor's objection to this evidence, his claim that the copy of the Final Judgment of Foreclosure admitted in evidence is not certified is just plain false. The foundational testimony during the final evidentiary hearing was that the copy was certified; the best evidence is the document itself. The copy of the Final Judgment of Foreclosure in evidence includes the following certification:[45]



County Clerk's Office
State of New York
County of Nassau

ss 13 - - 008566

I, Maureen O'Connell, Clerk of the County of Nassau and of the Supreme and County Courts, Courts of Record, do hereby certify that I have compared the annexed with the original judgment of foreclosure filed in my office 12-30-2014 and that the same is a true transcript thereof, and of the whole of such original.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said County and Court 02-03-2020.

COUNTY OF NASSAU STATE OF NEW YORK

Maureen O'Connell

County Clerk Maureen O'Connell

The fact that Debtor did not raise any of these issues until several days after the evidentiary hearing demonstrates yet again his

[45] Doc. 274-1, p. 13.

willingness to obfuscate, if not fabricate, facts in order to hinder and delay this case and enforcement of the Final Judgment of Foreclosure.

**Nationstar's retrieval of Debtor's courtesy copy of the exhibits is immaterial.**

Debtor accuses that Nationstar's counsel "forcibly reclaimed her notebook of Exhibits."[46] He avows that is why he decided to investigate the authenticity of the copy of the Final Judgment of Foreclosure. None of this is material. On this record, no certified copy was necessary. It is beyond debate or dispute that Nationstar holds a Final Judgment of Foreclosure. Courts have ruled it. Debtor knows it and admits it in his pleadings. By continuing to raise issues about the Final Judgment of Foreclosure Debtor continues his bad faith conduct.[47]

**The Final Judgment of Foreclosure is, in fact, final.**

This is far from Debtor's first attempt to invalidate the Final Judgment of Foreclosure. Two years after that judgment was entered, in 2017 Debtor filed suit against Nationstar and others in federal district

[46] Doc. 280, p. 1. *See also,* Doc. 283, p. 1.
[47] *See* Doc. 297, p. 21 ("Having carefully reviewed the evidence, including Debtor's testimony, actions and demeanor, this Court finds unmistakable manifestations of bad faith, both in filing the petition and the Sixth Plan").

court.[48] The parties there agreed to proceed on Debtor's Third Amended Complaint.[49] On cross-motions to dismiss and for summary judgment, the District Court for the Eastern District of New York properly denied Debtor's attempt to relitigate the Final Judgment of Foreclosure, stating:

> The *Rooker-Feldman* doctrine precludes a federal court from entertaining "cases brought by state-court losers complaining of injuries caused by state court judgments rendered before the district court proceedings commenced and inviting district court review and rejection of those judgments." *Rooker-Feldman* also precludes federal district courts from exercising jurisdiction over claims that are "inextricably intertwined" with state court determinations. This doctrine recognizes that "federal district courts lack jurisdiction over suits that are, in substance, appeals from state-court judgments."
> . . .

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[48] Debtor commenced that suit in the United Stated District Court for the District of Columbia; that Court transferred the case to the District Court for the Eastern District of New York. *Dekom v. Fannie Mae, et. al.,* Case No.: 2:17-cv-02712-RRM-ARL, Doc. 230, *Report and Recommendation* (E.D.N.Y. Feb. 26, 2019), adopted by the District Court for the Eastern District of New York in *Dekom v. Fannie Mae, et. al.,* Case No.: 2:17-cv-02712-RRM-ARL, Doc. 234 (E.D.N.Y. Mar. 28, 2019).

[49] *Dekom v. Fannie Mae, et. al.,* Case No.: 2:17-cv-02712-RRM-ARL, Doc. 230, *Report and Recommendation* (E.D.N.Y. Feb. 26, 2019). In his Third Amended Complaint, Debtor claimed that various court personnel, including judges, "engaged in an 'illegal process,' a 'racket,' harassment and coercion, a 'fraudulent court,' a 'fake hearing,' public corruption,' 'legal weirdness,' 'fraud,' and 'collusion,' which he says included the removal and alteration of public records, and 'influencing the selection of judges.' . . . [Debtor] brings this matter on behalf of himself and 'the poor of America in or facing judicial foreclosure, who are ill-equipped to fight the professional liars employed by Fannie Mae's agents, who stand to be victimized by them, and who have a God given right to have their day in court without being shorn of all human dignity.' . . . Although [Debtor] does not dispute that he defaulted on his loan, [Debtor] describes the foreclosure process as a 'perversion of the law' and suggests that his Judgment of Foreclosure and Sale was 'illegally obtained.' . . . [Debtor] describes the foreclosure inquest as 'a mix of public corruption and a cabal of mortgage industry insiders to serve as their private court [that does] not exist in any law and is illegal.' [Dekom also claims that he uncovered collusion in the appellate division, which, he says, led to his discovery of a 'robosigning scam,' as well as a scam allegedly perpetrated by the Nassau County Clerk." *Id.* at p. 9 (internal citations to the record omitted).

> Indeed, there is no doubt that [Debtor] is complaining of injuries caused by the state court judgment and is asking this Court to review and reject those findings.
> . . .
> Moreover, it is well settled, that "a federal plaintiff cannot escape the *Rooker-Feldman* bar simply by relying on a legal theory not raised in state court." . . . Accordingly, the undersigned finds that [Debtor's] claims are barred by the *Rooker-Feldman* doctrine, and thus, respectfully reports and recommends that the defendants' motions to dismiss be granted.[50]

**Debtor's myriad untruths, alone, support denial of the Motion to Reconsider.**

In addition to falsities recited above and those this Court has highlighted in prior orders, Debtor has made the following misrepresentations of fact and inconsistent statements to this Court:[51]

- "The secured claim of Nationstar Mortgage, LLC, d/b/a Mr [*sic*] Cooper alleged to be $544,411.15, in dispute and [is] subject to determination of this Court."[52]

- Much of *Debtor's Opposition to Motion for Relief From Automatic Stay,* in which Debtor asserts that Nationstar does not have standing and "is prohibited by law from the relief it seeks . . . . Nationstar cannot pursue foreclosure without first getting leave of the state court, RPAPL 1301(3). Debtor has not been served any such motion and Nationstar has not provided that it has been granted the requisite leave."[53]

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[50] *Id.* at pp.15-19 (internal citations omitted). The District Court also held that reconsideration of the Final Judgment of Foreclosure was barred by *res judicata* and collateral estoppel. *Id.* at pp. 19-21.

[51] *See* Fed. R. Evid. 613.

[52] *Chapter 13 Plan, Fourth Amended,* Doc. 56, p. 4.

[53] Doc. 61, p. 1. Here, Debtor was making a now obvious effort to convince this Court that he was being wronged by Nationstar, and that Nationstar had no legal claim against him despite

- Nationstar's Proof of Claim should be disallowed for various reasons including, "the claim shows no history of payments which evidence a debt or a contractual relationship."[54]

- "Nationstar's 'Exhibit III' (ECF 274-1) is not authentic, as proven by a variety of discrepancies . . . . [T]his was confirmed by the record custodian (ECF 280), the Nassau County Clerk . . . "[55]

- "[T]he judgment of Exhibit [Doc.] 274-1 is inauthentic and thus inadmissible."[56]

- "Debtor has met his own burden by averring under penalty of perjury that he owes Nationstar nothing."[57]

Debtor's biggest lie appears to be this entire Chapter 13 case. Here, Debtor originally listed the Property for rent. Later he listed the Property for sale at $950,000. He has maintained and testified throughout this case that he is making legitimate efforts to sell the Property, even though he refuses to put up a "for sale" sign or hire a professional realtor. All of

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Debtor's knowledge that the Final Judgment of Foreclosure existed. It was only in response to this pleading that Nationstar filed a copy of, and this Court saw, the Final Judgment of Foreclosure. Debtor has maintained that the Final Judgment of Foreclosure if not "final" despite this Court, the Supreme Court for the State of New York and the District Court for the Eastern District of New York telling him so, countless times.

[54] Doc. 76, p. 2.

[55] Doc. 283, p. 2.

[56] *Id.*

[57] *Id.* at p. 3.

this certainly left the Court and the parties with the impression that the Property was in good condition. But that was apparently not true.

On October 4, 2018, a mere three months before he filed this case, Debtor reported almost the complete opposite. In a letter to Bankruptcy Judge Robert Grossman, attached to his Chapter 13 plan filed with the Bankruptcy Court for the Eastern District of New York, Debtor represented that he and his family had abandoned the Property, which needed two years' worth of repairs:

> This plan has been executed by me, petitioner Martin Dekom, stating truly under penalty of perjury:
> . . .
> After filing, my family moved to Florida.
> . . .
> The single family residence served as our primary home for more than a decade and is habitable. However we had to effectively abandon it, as a "publication of sale" was posted with a date only a few weeks hence. I could not foresee this as the plaintiff had stated that it had elected not to pursue foreclosure, and a court order ended all claims between all parties. Because Nassau County permits a variety of extra-judicial processes, I could not reasonably expect the law to protect us now, no matter how explicit its commands. Because of our sudden departure we could not focus on the necessities of making it an attractive rental, despite that it is in a desirable area. While those repairs and rehabilitations will take about two years to accomplish from here, it should be [*sic*] generate $30,000 net income at that time.[58]

[58] *In re Dekom,* Bankruptcy Petition #: 8-18-75602-reg, Doc. 22, *Official Form 113- Chapter 13 Plan* (Bankr. E.D.N.Y. Oct. 4, 2018).

Perhaps the condition of the Property Debtor reported to the New York Bankruptcy Judge explains why in this case Debtor refused to allow Nationstar's appraiser access to the Property.[59]

The wholly conflicting positions taken by Debtor in the New York bankruptcy case and this one as to the condition of the Property raises the obvious, yet cliché, question: "were you lying then or are you lying now?"

## CONCLUSION

The Motion to Reconsider is frivolous and another waste of judicial time and resources. The record is replete with an appalling number of falsehoods and misrepresentations. Debtor has made a career, or hobby, or both, out of fighting with Nationstar. He apparently finds litigation enormously entertaining. He has demonstrated nothing but contempt for judges and the judicial process unless he believes appearing respectful will accomplish his nefarious goals.

It's a sad day when someone like this can take up so much of this Court's valuable time when others, who are truly suffering from the current Pandemic, need bankruptcy help. Debtor's manifold efforts to

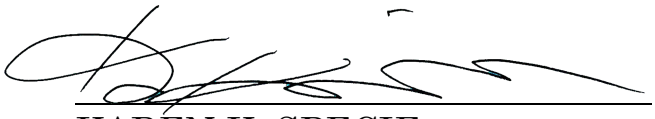
[59] Docs. 118, 129 and 203. When Nationstar raised the issue of access, Debtor claimed Nationstar's appraiser was a "drug dealer." Doc. 129.

challenge and escape from the Final Judgment of Foreclosure, and his abuse of the legal system, must cease – and they will, at least in this Court. For the reasons stated,

It is ORDERED:

*Debtor's Notice [sic] and Motion to Reconsider Denial of Motion to Exclude Exhibits* (Doc. 289) is DENIED.

DONE AND ORDERED on April 17, 2020.



KAREN K. SPECIE
Chief U. S. Bankruptcy Judge

cc: all parties in interest, including:
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